

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HEATH W. GRAY,) Civil Action No. 2:18-cv-01414
Plaintiff,) District Judge J. Nicholas Ranjan
vs.) Magistrate Judge Lisa Pupo Lenihan
ROBERT GILMORE, MICHAEL ZAKEN)
and STEPHEN DURCO,)
Defendants.) ECF No. 28
)
)

MEMORANDUM ORDER

Plaintiff initiated this civil rights action by filing a Motion for Leave to proceed in forma pauperis on October 23, 2018. (ECF No. 1). Defendants filed a Motion to Dismiss and, in response, Plaintiff requested leave to file an Amended Complaint. On January 18, 2019, the Court granted leave and the Amended Complaint was filed. (ECF No. 26). The case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 37), filed on June 20, 2019, recommended that the Motion to Dismiss (ECF No. 28) filed by Defendants Robert Gilmore, Michael Zaken, and Stephen Durco, be denied. Service was made on Plaintiff via first class mail to his address of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections, and that unregistered ECF users

were given an additional three (3) days pursuant to Federal Rule of Civil Procedure 6(d). No objections have been filed.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 30th day of August, 2019,

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 28) filed by Defendants Robert Gilmore, Michael Zaken, and Stephen Durco, is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 37) of Magistrate Judge Lenihan, dated June 20, 2019, is adopted as the Opinion of the Court.

BY THE COURT:

s/ J. Nicholas Ranjan
J. Nicholas Ranjan
United States District Judge

cc: Heath W. Gray
FP 0237
175 Progress Drive
Waynesburg, PA 15370
Via U.S. First Class Mail
All counsel of record
Via electronic filing